

(ii) An addition to the grant funds to be used for additional allowable program expenditures, in accordance with 2 CFR 200.307(e)(2)

(3) Program income may not be used to meet the non-Federal share requirement under 34 CFR 365.12(b).

(Authority: 29 U.S.C. 711(c); 34 CFR 80.25)

[59 FR 41887, Aug. 15, 1994, as amended at 79 FR 76098, Dec. 19, 2014]

§ 364.6 What requirements apply to the obligation of Federal funds and program income?

(a) Except as provided in paragraph (b) of this section, any Federal funds, including reallotted funds, that are appropriated for a fiscal year to carry out a program under 34 CFR part 365, 366, or 367 that are not obligated or expended by the DSU or center prior to the beginning of the succeeding fiscal year, and any program income received during a fiscal year that is not obligated or expended by the DSU or center prior to the beginning of the succeeding fiscal year in which the program income was received, remain available for obligation and expenditure by the DSU or center during that succeeding fiscal year.

(b) Federal funds appropriated for a fiscal year under part B of chapter 1 and under chapter 2 of title VII of the Act remain available for obligation in the succeeding fiscal year only to the extent that the DSU complied with any matching requirement by obligating, in accordance with 34 CFR 76.707, the non-Federal share in the fiscal year for which the funds were appropriated.

(Authority: 29 U.S.C. 718)

Subpart B—What Are the Application Requirements?

§ 364.10 What are the application requirements?

To receive a grant from a State's allotment of funds under parts B and C of chapter 1 of title VII of the Act and 34 CFR parts 365 and 366, a State shall submit to the Secretary, and obtain approval of, a three-year State plan

meeting the requirements in subpart C of this part.

(Approved by the Office of Management and Budget under control number 1820-0527)

(Authority: 29 U.S.C. 796c(a)(1))

§ 364.11 When must the State plan be submitted for approval?

The designated State unit (DSU) shall submit to the Secretary for approval the three-year State plan no later than July 1 of the year preceding the first fiscal year of the three-year period for which the State plan is submitted.

(Approved by the Office of Management and Budget under control number 1820-0527)

(Authority: 29 U.S.C. 796c(a)(4))

§ 364.12 How does the Secretary approve State plans?

(a) *General.* The Secretary approves a State plan that the Secretary determines meets the requirements of section 704 of the Act and subparts B through D of this part and disapproves a plan that does not meet these requirements.

(b) *Informal resolution.* If the Secretary intends to disapprove the State plan, the Secretary attempts to resolve disputed issues informally with State officials.

(c) *Notice of formal hearing.* If, after reasonable effort has been made to resolve the dispute informally, no resolution has been reached, the Secretary provides written notice to the DSU and the SILC of the intention to disapprove the State plan and of the opportunity for a hearing.

(d) *Hearing.* (1) If the DSU requests a hearing, the Secretary designates one or more individuals, either from the Department or elsewhere, not responsible for or connected with the Department's administration of the programs authorized by title VII of the Act, to conduct a hearing.

(2) If more than one individual is designated, the Secretary designates one of those individuals as the Chief Hearing Official of the Hearing Panel. If one individual is designated, that individual is the Hearing Official.